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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/212,442	12/16/1998	UDO BARTSCH	3597-16	8450

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EXAMINER

PRETLOW, DEMETRIUS R

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/212,442

Applicant(s)

BARTSCH ET AL.

Examiner

Demetrius R. Pretlow

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 10, 13-18, 20-22, 25, 26 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10, 13-18, 20-22, 25, 26 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 1998 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the measuring module and the clock supported in the housing must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2,5,6,10,13-16, 18,21,22,26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karr et al in view of Helm et al. further in view of Castellano et al. Karr et al. teach a measuring modules (86) which is used to measure the length of each stride by performing mathematic functions. Note Karr et al, abstract , Figures 2 and 5. Karr et al. teach a data processing unit (86), data input units (40,42,44,46), an indicator unit (38), a clock (58) galvanically

separate from the measuring module. Karr et al. teach transmitting data via an antenna to the processing and display module (16), which can be interpreted as non-touching obtaining means. In reference to claim 2, Karr et al. teach a time indicator selectable settable and after a measurement resettable to the actual time. Note Karr et al column 5, lines 27-48. In reference to claim 5, Karr et al teach a digital indicator with an LCD screen (38). Note Figure 1 item 16. Karr et al teach a measuring module (86) which corresponds to start, stop and restart functions. A counter is inherent to the device to determine time and some type of sensor is used to transfer the data to the display to show the time which suggests that the measuring module has a counter triggerable by a sensor sensing LCD screen. Note Figure 1 item 16 and column 7 lines 60-66. Karr et al does not teach the display selectively switchable to dark, however LCD screen selectively switchable to dark is notoriously known in the art because it would allow a user with bad eye site to adjust the display to a desired preference. In reference to claim 15, Karr et al. teach carrying out calculation functions. Note column 5 lines 13-18. In reference to claim 18, Karr et al teach a measuring module having a radio receiver (84). Note column 7 lines 42-52. In reference to claim 6, Karr et al teach devices for wireless transmission. Note Figure 4 item 78 and Figure 5 item 84. In reference to claim 10, Karr et al teach a wristband (36).

In reference to claim 14, Karr et al teach an alarm coupled to the measuring module. Note column 8 lines 10-13.

Karr et al. does not teach non- touching and non-galvanically obtaining the indicated time data from the clock and for transmitting the so obtained indicated time data to the measuring module. Karr et al. does not teach a measuring module for analysis of body fluid and measuring module and the clock supported in the housing.

Helm et al. teach non- touching and non-galvanically obtaining the indicated time data from the clock (1) and for transmitting the so obtained indicated time data to the measuring module (3). Note Figures 1, Figure 3 and column 4, lines 3-50.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Karr et al and Helm et al because it would allow the ease of resetting a clock, particularly when entering a new time zone. Note Helm et al. column 4, lines 4, lines 47-50.

Castellano et al. teach a measuring module for analysis of body fluid and measuring module and the clock supported in the housing. Note Castellano et al. column 11, lines 64 to 67 to column 12, lines 1 and 2 also note Figure 22.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined invention of Karr et al. and Helm, to include the teaching of Castellano et al. because it would allow the level of glucose in the blood to be tested. Note Castellano et al. column 12, lines 1 and 2.

In reference to claim 13, Karr et al. and Helm et al. do not teach a data processing unit that has a memory accessible through the data input unit. Castellano et al teaches data processing unit (314) that has a memory accessible through the data input unit (310). Note Castellano et al column 13, lines, 61-67.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Karr et al and Helm et al. to include the teaching of Castellano et al. because it would allow program instructions to be uploaded and information downloaded. Note Castellano et al column 13, lines, 61-67.

In reference to claim 16, Karr et al , and Helm et al. do not teach supervisory functions. Castellano et al teach supervisory functions. Note Castellano et al. column 9 lines 3-8 and 43-45.

It would have been obvious to a person of ordinary skill in the art at the time invention was made to add the teachings of Castellano et al to the combination of Karr et al. and Helm et al. because it would remind a user to perform injections in case they forget. Note column 9 lines 3-8 and 43-45.

In reference to claim 21, Karr et al and Helm et al. do not teach a contact service for data exchange with an external device. Castellano et al teach a contact service (46) for data exchange with an external device. Note Castellano et al column 9 lines 37-45.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined invention of Karr et al. and Helm et al. to include the teaching of Castellano et al. because it would allow the doctor to download stored medical information. Note Castellano et al column 9 lines 37-45.

In reference to claim 22 the Karr et al. and Helm et al. do not teach contact surface covered. Castellano et al. appears to teach the contact (46) covered.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Castellano et al with the teachings of

Karr et al and Helm et al et al because it would help prevent the contact from being damaged and contaminated thereby preventing transmission.

In reference to claim 26, Karr et al, Helm et al, and Castellano et al , do not teach a transponder for the contactless transmission of data. However transponders are well known in the art because it is commonly used with wireless transmissions and therefore would be inherent to Karr et al. Note column 7, lines 48-52.

4. Claims 3,4,17,20,25 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karr et al. in view of Helm et al. and further in view of Castellano et al. and further in view of Allgaier et al. Karr et al, Helm et al. and Castellano et al. do not teach an analog time indicator with hands, and obtaining means obtains hand positions.

Allgaier et al teach an analog time indicator with hands, and obtaining means obtains hand positions. Note Allgaier et al abstract.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the teachings of Allgaier et al with the combination of Karr et al, Helm et al. and Castellano et al. because it will provide a simpler query of position and the transfer of the display elements into a predetermined display position, in particular a reference position, that may be carried out. Note Allgaier et al. column 1, lines 53-58.

In reference to claim 4, Karr et al and Helm et al. and Castellano et al. do not teach optically obtaining hand positions. Allgaier et al teaches obtaining hand positions. Note Allgaier et al Abstract.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the teachings of Allgaier et al to the combination of Karr et al Helm et al. and Castellano et al. because it would allow the device to keep accurate time.

In reference to claim 17, Karr et al. and Helm et al do not teach indicating the amount and the application time point of a medicine. Castellano et al teach indicating the amount and the application time point of a medicine. Note Castellano et al column 9 lines, 29-32.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Castellano et al with the teachings of Karr et al, Helm et al and Allgaier et al because it would allow the doctor to download the stored information for review. Note Castellano et al column 9 lines, 29-32.

In reference to claim 20, Karr et al, Helm et al, Castellano et al, and Allgaier et al .do not teach a data processor connected to a speech module. However speech module connected with a data processor is well known in the art because it would allow people with physical disabilities (ex. missing arms) to activate a device with there voice.

In reference to claim 25 Karr et al, Helm et al, Castellano et al, and Allgaier et al. and do not teach an alarm device actuated when a data exchange has ended. However using an alarm to indicate a data exchange has ended is well known in the art because

it would notify the doctor that all the information desired as been successfully downloaded.

In reference to claim 31, Karr et al, Helm et al, Castellano et al, Allgaier et al, do not teach a holographic pattern printed on part of the dial. The However designs on dials are well known and are used to decorate the dial.

Response to Arguments

5. Applicant's arguments filed August 28m 2002 have been fully considered but they are not persuasive. Applicant argues that the cited art does not teach a measuring module for analysis of body fluid and the measuring module and the clock supported in the housing. This is not found convincing because the claim language given its broadest reasonable interpretation reads on the prior art of Karr et al. Helm et al. and Castellano et al.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Demetrius R. Pretlow whose telephone number is (703) 308-6722. The examiner can normally be reached on Monday - Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow, can be reached at (703) 308-3126. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Demetrius R. Pretlow

Patent Examiner

Demetrius Pretlow

11/5/02

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